

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

M.T., a minor by and through his grandmother
and next friend, EDWINA WOODLEY, et al.,

Plaintiffs,

vs.

TATUM UNIFIED SCHOOL DISTRICT,

Defendant.

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C.A. NO.: 2:21-cv-00364

PLAINTIFFS' MOTION TO CONTINUE TRIAL

Plaintiffs M.T., a minor by and through his grandmother and Guardian, Edwina Woodley, and K.C., a minor by and through his mother and Guardian, Kambry Cox ("Plaintiffs") by and through their counsel of record, files this Motion to Continue as follows:

1. Trial in this matter is currently set to begin on February 12, 2024.
2. Plaintiffs' lead counsel has another trial set for January 29, 2024 in the Superior Court of California, County of Sacramento. The case number for the matter set for trial on January 29, 2024 is 34-2021-00304120.
3. The estimated length of the trial Plaintiffs' counsel has set to begin on January 29, 2024 is seven to ten days, following jury selection, motions in limine, and other pre-trial procedures.
4. Plaintiffs' counsel's conflicting trial schedule makes adherence to the Court's scheduling order impracticable. Under Federal Rule of Civil Procedure 16 (b)(4), Plaintiffs have good cause to request a trial continuance.
5. As the trial set for January 29, 2024 in Sacramento, California (which is estimated to

last seven to ten days following jury selection, motions in limine, and other pre-trial procedures) is so close in time to the trial in this matter set to begin in Marshall, Texas on February 12, 2024, it is highly likely that these two trials will overlap.

6. As Plaintiffs' counsel cannot attend both trials at the same time, there is good cause to continue the trial in this matter for three months. Conflicting trial schedules for party's counsel is good cause to continue a trial. (*Phillips v. Occidental Chemical Corporation*, Civ. No. 99-0828 SECTION "T" (5), at *1 (E.D. La. Mar. 23, 2000) and “.” *My Health, Inc. v. ALR Techs., Inc.*, No. 2:16-cv-00535-RWS-RSP (Lead), at *6 (E.D. Tex. Dec. 19, 2017)).

7. There is further good cause to continue the trial date as Defendant will not be prejudiced by such a short continuance. Plaintiffs' counsel has further met and conferred with Defendant's counsel regarding this motion, and Defendant's counsel has indicated that Plaintiffs' Motion to Continue Trial is unopposed.

8. Plaintiffs thus respectfully request that the Court continue the trial in this matter currently set for February 12, 2024 for three months, subject to the Court's availability.

DATED: January 5, 2024

Respectfully Submitted,

/s/ Waukeen Q. McCoy

WAUKEEN Q. McCOY, ESQ.
McCOY LAW FIRM, P.C.
251 Post Street, Suite 301
San Francisco, CA 94108
Telephone: (415) 675-7705
Facsimile: (415) 675-2530
mail@mccoyslaw.com

*Admitted *Pro hac Vice*

Brad Steele
Texas Bar No. 19099350
LAW OFFICE OF BRADLEY STEELE
1101 Judson Road
Longview, TX 75601
Tel: (903) 234-8844
brad@bradsteelelaw.com

Attorneys for Plaintiffs

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(h), I hereby certify that the parties have met and conferred in good faith regarding Plaintiffs' requested relief. On Wednesday, January 3, 2024, Plaintiffs' counsel asked Defendant's counsel if they would stipulate to continuing trial in this matter due to the conflict with Plaintiffs' counsel's trial in another matter. Defendant's counsel responded on the same date and indicated that they would not oppose a Motion to Continue by Plaintiffs, but could not stipulate to an exact timeframe, given the Court's docket.